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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/038,717	01/28/1998	MICHIO KADOTA	36856.64	8660

7590 08/20/2002

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EXAMINER

BUDD, MARK OSBORNE

ART UNIT PAPER NUMBER

2834

DATE MAILED: 08/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	038717	Applicant(s)	Kadota
Examiner	M. Budd	Group Art Unit	2834

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

Responsive to communication(s) filed on 6-24-02

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

Claim(s) 1-9 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-9 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.
- The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - All
  - Some\*
  - None of the CERTIFIED copies of the priority documents have been received.
  - received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

- Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- Interview Summary, PTO-413
- Notice of Reference(s) Cited, PTO-892
- Notice of Informal Patent Application, PTO-152
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Other \_\_\_\_\_

## Office Action Summary

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Claims 1-9 are rejected under 35 U.S.C. 102 as anticipated by Kadota (DE 44 00 980).

Kadota (U.S. 5719538) is no longer applied under 35 U.S.C. 102 for the reasons set forth in applicants arguments. However, should allowable subject matter be found in the future, this reference may be cited against those claims under the judicially created doctrine of double patenting.

Applicant has argued that Kadota (U.S.) And (German) does not teach a quartz substrate having a negative temperature coefficient of delay. However, claim 1 of Kadota (U.S.) explicitly states "said quartz substrate... a negative value of temperature coefficient of delay". As pointed out in the office action by the German Patent Office (5-12-99) Kadota (German) teaches the same combination of materials (i.e. ZnO, CDS and Ta<sub>2</sub>O<sub>5</sub> over a quartz substrate) as used by applicants, thus it is hard to understand why the claimed devices are alleged to be different in applicants remarks.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

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will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

  
MARK L. BUDD  
PRIMARY EXAMINER  
ART UNIT 212